IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6917 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHADRESH CHANDULAL SHAH
Versus
STATE OF GUJARAT AND OTHERS

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Appearance :
MR PM BHATT for Petitioner.
MR DIPEN DESAI, AGP for Respondents.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 11/09/2007

ORAL JUDGMENT

1. The petitioner has invoked Article 226 of the Constitution to challenge the order made in so-called appeal, refusing to entertain it on the ground of limitation. According to the petitioner, he had purchased the immovable property by a sale deed dated 8-4-2002 and Deputy Collector, Stamp Duty Valuation Organization had directed him to pay

deficit stamp duty of Rs.19,130/-, including fine of Rs.250/- and the petitioner had sought to prefer an appeal therefrom after depositing 25% of the deficit amount. However, that application, in the form of an appeal, under the provisions of Section 32 B of the Bombay Stamp Act, 1958 was not entertained only on the ground of delay, even as it was made within two months of knowledge of the order sought to be challenged.

2. Learned AGP, Mr.Desai, appearing for the respondents fairly conceded that, after accepting the deposit for the purpose of making a reference, so-called appeal of the petitioner was required to be considered and decided on merits by appropriate authority, in accordance with law. However, since Section 32 B was deleted by recent amendment of the Bombay Stamp Act, 1958 the respondent would now decide so-called appeal of the petitioner on merits, in accordance with law, by exercising powers under Section 53 of the said Act.

3. Accordingly, by consent, the petition is partly allowed with the direction that the respondent concerned shall entertain the application of the petitioner, made in the form of an appeal, to challenge order and direction dated 18-11-2003 of Deputy Collector, Stamp Duty Valuation Organization, Ahmedabad and decide it on merits, in accordance with law, after affording to the petitioner an opportunity of being heard. In view of long lapse of time during the proceedings as aforesaid, the authority concerned shall conduct and conclude the proceedings in terms of this order as expeditiously as practicable within a period of three months. Rule is made absolute accordingly with no order as to costs.

(D.H.Waghela, J.)

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